



DELTA STEWARDSHIP COUNCIL

A California State Agency

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RE: Notice of Preparation of a Draft Environmental Impact Report for the Liberty Specific Plan, SCH# 2016052012

Dear Mr. Hardy:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Liberty Specific Plan (project or proposed project). The project proposes amendments to the City of West Sacramento's (City) General Plan and Southport Framework Plan, a specific plan, and other related development entitlements for development of approximately 340 acres of residential and office/commercial uses, a K-8 school, and public and private parks and open space.

State law specifically directs the Delta Stewardship Council (Council) to provide "advice to local and regional planning agencies regarding the consistency of local and regional planning documents with the Delta Plan" (Water Code section 85212). Council staff requests that the Delta Plan, including its policies and recommendations, be acknowledged in the DEIR's description of the regulatory setting for each section to which it applies.

As we have previously discussed with City staff, the Council has specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta, known as "covered actions." To this end, the Delta Plan contains a set of regulatory policies with which state and local agencies are required to be consistent. The Delta Reform Act established a certification process for compliance with the Delta Plan (Water Code section 85022).

Council staff is happy to provide assistance to the City in determining whether the proposed project meets the statutory definition of a "covered action" and, as such, would require a certification of consistency. We encourage you to consult with Council staff to better understand the covered action process and how this project may or may not be consistent with the Delta Plan.

Sacramento Area Council of Governments MTP/SCS

The Delta Reform Act establishes specific criteria and categories for excluding actions from the Council's regulatory authority. One of these exclusions is for actions within the secondary zone of the Delta that a metropolitan planning organization determines are consistent with its sustainable communities strategy. Such proposed actions are *not* "covered actions" regulated by the Council (Water Code section 85057.5(b)(4)).

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

The Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) adopted by the Sacramento Area Council of Governments (SACOG) in 2016 contains a land use forecast that reflects the development activities described in the general plans and specific plans adopted by the local jurisdictions. The City may request an evaluation of the project's consistency with SACOG's 2016 MTP/SCS. If SACOG determines that it is consistent, the proposed project would be exempt from the Council's covered action process.

Comments on the Liberty Specific Plan

Below we have summarized Delta Plan regulations that are most applicable to this project, as well as noting relevant Delta Plan recommendations, which are non-regulatory.

- **Delta Plan Policy G P1 (23 CCR section 5002), Detailed Findings to Establish Consistency with the Delta Plan.** Delta Plan Policy G P1 (b)(2) states, "Covered actions not exempt from CEQA must include applicable feasible mitigation measures identified in the Delta Plan's Program EIR (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective." These mitigation measures can be found in the Delta Plan Mitigation and Monitoring Reporting Program (http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf).
- **Delta Plan Policy DP P1 (23 CCR section 5010), Locate New Urban Development Wisely.** Delta Plan Policy DP P1 is intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk. In order to be consistent with Delta Plan Policy DP P1, new residential, commercial, or industrial development is permitted only if it is located in areas designated for development in city or county general plans as of the date of the Delta Plan's adoption (May 16, 2013), as reflected in Appendix 7 of the Delta Plan regulations.

Based on our review of the NOP, it appears that the project does not propose to change the designation of any areas within the Liberty Specific Plan boundary from agriculture or open space to commercial, residential or industrial land uses, in comparison with the land use maps in the City's 2000 General Plan, and the project area lies within areas designated for development in the Figure 7-8, City of West Sacramento in Appendix 7 of the Delta Plan regulations (<http://deltacouncil.ca.gov/docs/map-fig-7-8-city-west-sacramento>).

However, the new Sacramento River levee setback area adjacent to the project's boundary is depicted in Figure 4 of the NOP as "WSAFCA Area," and no longer as "Open Space," as shown in the General Plan 2035 Draft Land Use Plan (and in the aforementioned related land use plans). In the DEIR, please clarify the land use designation for the area of the new levee setback and explain whether it is equivalent to the current open space designation.

- **Recreation Recommendations.** The Delta Plan recommends protecting and improving existing recreation opportunities while seeking ways of providing new and better coordinated opportunities. Delta Plan Recommendation DP R11 calls for providing new and protecting existing recreational opportunities in the Delta and Suisun Marsh. Additionally, Recommendation DP R16 states that public agencies owning land should increase opportunities, where feasible, for bank fishing, hunting, levee-top trails, and environmental education. Opportunities to provide these recreation uses as part of the Liberty Specific Plan should be explored.

Comments on the NOP

Based on our review of the NOP for the Liberty Specific Plan, we recommend the following matters be discussed or included in the DEIR:

- **Inconsistencies with the Delta Plan.** The DEIR should discuss any inconsistencies between the proposed project and the Delta Plan, as required by 15125(d) of the California Environmental Quality Act (CEQA) Guidelines. Please note that the CEQA Guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulation may result in a finding of significant impact on biological resources.
- **Land Use and Planning.** In the DEIR, please cite Delta Plan Policy DP P1 (23 CCR section 5010), and also please provide clarification on the land use designation for the area of the new levee setback, and explain whether it is equivalent to the current open space designation. Please consider including the applicable Land Use and Planning and Recreation mitigation measures in the Delta Plan Mitigation and Monitoring Reporting Program. (See Mitigation Measures 6-1, 6-2, and 18-1 through 18-3.)
- **Hydrology and Water Quality.** In accordance with State law, the new setback levee must comply with the 200-year urban levee flood protection standard; however, DSC staff is concerned with the close proximity of the proposed K-8 school and high-density housing to the new levee. In the Hydrology and Water Quality section of the DEIR, please analyze and discuss whether the project would expose people or structures, and in particular, school and multi-family housing populations and structures, to a significant risk of loss, injury, or death involving flooding, including flooding as a result of levee failure, and identify measures to avoid, minimize, or mitigate those impacts. Please consider including the applicable Delta Flood Risk mitigation measures in the Delta Plan Mitigation and Monitoring Reporting Program. (See Mitigation Measures 5-1 through 5-5.)

Council staff looks forward to working with you to ensure that the Liberty Specific Plan moves forward as quickly as possible while addressing flood risk and open space resources in the Delta. I encourage you to contact Jeff Juarez at jeff.juarez@deltacouncil.ca.gov or (916) 445-5528 with your questions, comments, or concerns.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council